

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

October 5, 2011

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:35 p.m. in the City Council Conference Room on the 5th day of October, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmember Spaulding and Chairman Griffith

ABSENT: Councilmembers Dillingham and Kovach

OTHERS PRESENT: Mr. Roger Gallagher, Ward One Councilmember
Ms. Linda Lockett, Ward Seven Councilmember
Mr. Anthony Francisco, Director of Finance
Ms. Brenda Hall, City Clerk
Ms. Syndi Runyon, Administrative Assistant IV

DISCUSSION REGARDING SALES TAX COLLECTION FOR TRANSIENT VENDORS.

Ms. Brenda Hall, City Clerk, said City Council adopted amendments to the ordinances regulating Solicitor/Peddler and Temporary Food permits adding a one day permit to each license classification. She said during the discussions, some Councilmembers raised concerns whether or not transient vendors are remitting sales tax for sales in Norman and asked that this be discussed in a future Oversight Committee meeting. She said the current ordinances for Solicitor/Peddler and Temporary Food permits require vendors to submit proof that sales tax has been paid prior to permits being renewed. She said in the Special Event Ordinance, confirmation of sales tax compliance has been difficult because Staff is not dealing directly with the vendors. She said the event host is required to submit a list of vendors including name, address, and sales tax permit information, but many of the vendors are transient out-of-state vendors who do not have an Oklahoma Sales Tax Permit and the Oklahoma Tax Commission (OTC) will not issue them a number since they only sell in Norman once or twice a year. OTC allows out-of-state vendors to report sales and pay sales tax under a "casual permit" and their reports are tied to their social security number, which the City does not have.

Ms. Hall said she contacted OTC and discovered they have a Special Events Enforcement Division that works specifically with special events. Under this program, OTC issues a Special Event Permit to the event host no later than 20 days prior to the date of the event along with the blank tax remittance forms for each vendor to report sales. The vendor must remit sales tax within 15 days following the conclusion of the event. The event host is required to supply OTC with a list of vendors including name, address, telephone number, and sales tax permit number, if the vendor has one. If a vendor has a sales tax number, they may choose to remit sales tax under their sales tax number rather than under the special event permit. If the event host does not submit a report for a specific vendor on the list provided to them, OTC will send that vendor a notice that they were listed as a vendor for the event and remittance of sales tax is required immediately. Ms. Hall said this process will make it easier for City Staff to verify sales tax remittance since the reports provided by OTC are earmarked with the name of the event and the reports are submitted directly to the Special Events Enforcement Division. She said City Staff will work with event hosts to ensure this process is being used for Norman's special events.

Ms. Hall said many of the special events in Norman such as May Fair, Medieval Fair, etc. operate under the OTC Special Event Permit, but report of sales is basically done through an honor system in that vendors are expected to honestly report actual sales. She said there is no way for OTC or the City to verify that actual sales are being reported, only that sales are reported and sales tax is being paid on those sales. Councilmember Gallagher asked the percentage of vendors that comply and Ms. Hall said, according to OTC, many events are participating 100%.

Chairman Griffith asked if there had been any circumstance where a vendor had obtained a thirty day permit and renewed that permit before they were required to submit proof of sales tax and Ms. Hall said the requirements are fairly new and that scenario has not happened yet, but the vendor would have to submit a receipt from OTC or a copy of their report submitted online. Ms. Hall said one example would be Sooner Bloomers, a company that sells flowers and plants twice a year in the Sooner Mall parking lot. She said they had obtained two thirty day permits in May 2011, and applied for two thirty day permits in September 2011, so they had to submit proof that sales tax was paid on the sales made during the last permit period prior to another permit being issued. The vendor complied without hesitation.

Councilmember Spaulding asked if vendors obtaining a one day permit to sell on University of Oklahoma (OU) home football game days are required to show proof they have remitted sales tax before they can renew the permit and said, if so, that seemed to be overreaching to him. Ms. Hall said the one day permits were added to the ordinances in August 2011, so this football season is the first time the one day permits have been issued. She said the City is not trying to deter businesses from selling in Norman and Staff will work with vendors as the City realizes that sales tax reports are only submitted once a month. She said the one day vendors selling on home game days could be required to submit proof of remittance within 30 days after the football season has ended or, definitely, prior to obtaining any future permits in Norman. She said the ultimate goal is to ensure sales tax is being paid by vendors selling products in Norman.

Councilmember Gallagher asked how compliant the Norman Music Festival has been and Ms. Hall said there are two segments to the Festival and all vendors registered with the Dustbowl Arts Market had 100% compliance. She said Dustbowl Arts Market had the majority of small vendors selling. She said the majority the vendors selling downtown during the Music Festival are local permanent businesses selling outside and they report sales tax regularly. She said transient vendors are the most difficult to track since they do not have sales tax permit numbers. Councilmembers asked if the City could require social security numbers if the vendor does not have a sales tax permit in order to follow up on compliance and Ms. Hall said it is not required by ordinance and people are generally hesitant to give those numbers. Councilmembers asked if it would even be legal to require social security numbers in lieu of sales tax permit numbers and Ms. Hall said she would want to verify through the City Attorney's Office that the information would be protected under the Open Records Act. Chairman Griffith felt it would not be unreasonable to ask for social security numbers if the information is protected.

Ms. Hall said current provisions included in the ordinances for solicitor/peddler and temporary food permits ensure sales tax is remitted as vendors are required to show proof of sales tax payment before a permit can be renewed; however, current Code provisions are specific to those permits. In light of this, Staff recommends the Committee consider an ordinance amendment to Chapter 13, Licenses and Occupations, to add a blanket provision that would cover all City permits/licenses that states "no license/permit will be issued or renewed if the applicant has outstanding liabilities or sales tax for the City of Norman." She said the City has always required proof that delinquent sales tax has been paid prior to renewals for businesses that hold annual licenses, but there has never been anything in writing to fall back on so if a business were to challenge the

requirement, the City would have no option but to renew the license. Chairman Griffith asked Ms. Hall to define "liability" and Ms. Hall said it would be a broad description and could include a water bill or Municipal Court fine, basically any liability to the City. The Committee felt the language would be acceptable.

Chairman Griffith asked the Committee if they wanted to bring the amendment forward to City Council in a Conference or Study Session and they all agreed.

Ms. Hall said Staff would prepare an ordinance amendment for Chapter 13 and bring it forward in a Conference or Study Session before officially placing on Council's agenda for action.

Items submitted for the record

1. Memorandum dated September 29, 2011, from Brenda Hall, City Clerk, to Honorable Mayor and City Councilmembers
2. Oklahoma Tax Commission Special Events Enforcement

MISCELLANEOUS DISCUSSION.

Chairman Griffith said he would like Councilmembers to think about issues they would like the Oversight Committee to discuss in the future and forward those ideas to the City Clerk or himself to be prioritized and scheduled for the Committee's review. Ms. Hall said items currently scheduled to be discussed are moving alley side solid waste collection to street side collection, reviewing data on speed feedback signs, bullying, and problems with construction trucks traveling in neighborhoods.

The meeting adjourned at 6:13 p.m.